



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 * Olympia, Washington 98504-0908 * (360) 753-1111 * Fax (360) 753-1112
Toll Free 1-877-601-2828 * E-mail: pdcc@pdcc.wa.gov * Website: www.pdcca.wa.gov

July 20, 2005

KEVIN HAMILTON
PERKINS COIE LLP
1201 3RD AVE STE 4800
SEATTLE WA 98101-3099

Subject: Final Order - PDC Case No. 05-136

Dear Mr. Hamilton:

Enclosed is the Public Disclosure Commission's Final Order that was entered in the above-referenced case at the Commission meeting on June 9, 2005. Also enclosed is a copy of the signed Stipulation of Facts, Violations and Penalty.

If you have questions, please contact me at (360) 664-8853, toll free at 1-877-601-2828 or by email at pstutzman@pdcc.wa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Philip E. Stutzman".

Philip E. Stutzman
Director of Compliance

Enclosures

*"The public's right to know of the financing of political campaigns and lobbying
and the financial affairs of elected officials and candidates far outweighs
any right that these matters remain secret and private."*

RCW 42.17.010 (10)



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7 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
8 **OF THE STATE OF WASHINGTON**

9 IN RE THE MATTER OF ENFORCEMENT
10 ACTION AGAINST

PDC CASE NO. 05-136

FINAL ORDER

11 Washington State Democratic Central
12 Committee,
13 Respondent.

14 The Washington State Public Disclosure Commission (Commission) received a report
15 and Stipulation of Facts, Violations and Penalty in this case on June 9, 2005 at the Commission
16 Offices at the Evergreen Plaza Building, 711 Capitol Way, Room 206, Olympia, Washington.
17 The Commissioners present included: Michael Connelly, Chair; Jane Noland, Member; Bill
18 Brumsickle, Member; and, Ken Schellberg, Member. Senior Counsel Nancy Krier,
19 Commission counsel, was also present.

20 Appearing for the PDC staff were: Senior Assistant Attorney General Linda Dalton,
21 and PDC staff members Doug Ellis, Acting Assistant Director, and Phil Stutzman, Director of
22 Compliance. Also present was Vicki Rippie, Executive Director.

23 Appearing for the Respondent Washington State Democratic Central Committee was
24 Kevin Hamilton, attorney.
25
26

1 PDC staff members Ruthann Bryant and Jennifer Hansen served as recorders/reporters
2 of proceedings. The proceedings were recorded. The proceedings were open to the public.

3 The matter before the Commission concerned allegations that the Respondent violated
4 RCW 42.17.080 and RCW 42.17.090 by failing to timely disclose individual contributor
5 detailed information for funds transferred from its federal account to its state non-exempt
6 account, and failed to timely disclose debts and orders placed for candidate support
7 expenditures for the 2004 election.

8 Following consideration of the written materials including the PDC Staff Report of
9 Investigation dated May 26, 2005 with exhibits, Executive Summary and Staff
10 Recommendations dated June 2, 2005, and the oral presentations by the parties, and further
11 consideration of the parties' Stipulation of Facts, Violations and Penalty dated June 9, 2005
12 (Stipulation), the Commission accepted the Stipulation by a 4-0 vote. A copy of the
13 Stipulation is hereby attached and incorporated. The Commission therefore enters the
14 following findings and order.

15 I. FINDINGS

16 Based upon the stipulated facts and violations in the Stipulation, the Commission finds:

- 17 1. That Respondent committed violations of RCW 42.17.080 and .090 by failing to
18 timely report and disclose information required for \$394,544 in contributions
19 from individual donors.
20
- 21 2. That the Respondent committed multiple violations of RCW 42.17.080 and .090
22 by failing to timely disclose debts and orders placed that totaled \$704,815 for
23 candidate support expenditures during the 2004 election.
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1 **II. ORDER**

2 The Commission also orders as follows:

- 3 1. That the Stipulation is accepted;
- 4 2. That a total civil penalty of \$85,000 is assessed against the Respondent;
- 5 3. That Respondent will pay \$2,500 in attorneys fees and costs of investigation;
- 6 and,
- 7 4. That payment of the penalty and attorneys fees/costs shall be made as follows:
- 8 \$52,500 to be paid on or before December 31, 2005 and the remainder to be
- 9 paid on or before December 31, 2006.
- 10

11 The Executive Director is authorized to sign the order on behalf of the Commission.

12

13 **III. APPEALS**

14 **RECONSIDERATION OF FINAL ORDER - COMMISSION**

15 Any party may ask the Commission to reconsider this final order. Parties must place

16 their requests for reconsideration in writing, include the specific grounds or reasons for the

17 request, and deliver the request to the Public Disclosure Commission Office within

18 **TWENTY-ONE (21) BUSINESS DAYS** of the date that the Commission serves this order

19 upon the party. WAC 390-37-150. Service by the Commission on a party is accomplished on

20 the date of mailing by U.S. mail if the order is mailed, or the date of personal service if

21 personal service is made. RCW 34.05.010(19). The Commission orders are generally mailed

22 via U.S. mail.

23 Pursuant to WAC 390-37-150, the Public Disclosure Commission is deemed to have

24 denied the petition for reconsideration if, within twenty (20) business days from the date the

25 petition is filed, the Commission does not either dispose of the petition or serve the parties with

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1 written notice specifying the date by which it will act on the petition. Pursuant to RCW
2 34.05.470(5), the Respondent is not required to ask the Public Disclosure Commission to
3 reconsider the final order before seeking judicial review by a superior court.

4 FURTHER APPEAL RIGHTS – SUPERIOR COURT

5 Pursuant to RCW 42.17.395(5), a **final order** issued by the Public Disclosure
6 Commission is subject to judicial review under the Administrative Procedures Act, chapter
7 34.05 RCW. The procedures are provided in RCW 34.05.510 - .598. Pursuant to RCW
8 34.05.542(2), a petition for judicial review must be filed with the superior court in Thurston
9 County or the petitioner's county of residence or principal place of business. The petition for
10 judicial review must be served on the Public Disclosure Commission and any other parties
11 within **30 days** of the date that the Public Disclosure Commission serves this final order on the
12 parties. RCW 34.05.542(4) provides: "Service of the petition on the agency shall be by
13 delivery of a copy of the petition to the office of the director, or other chief administrative
14 officer or chairperson of the agency, at the principal office of the agency. Service of a copy by
15 mail upon the other parties of record and the office of the attorney general shall be deemed
16 complete upon deposit in the United States mail, as evidenced by the postmark."

17 If reconsideration is properly sought, the petition for judicial review must be served on
18 the Public Disclosure Commission and any other parties within thirty (30) days after the
19 Commission acts on the petition for reconsideration.

20 ENFORCEMENT OF FINAL ORDERS

21 The Commission will seek to enforce this final order in superior court under RCW
22 42.17.395-.397, and recover legal costs and attorney's fees, if the penalty remains unpaid and
23

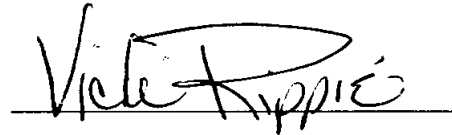
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1 no petition for judicial review has been filed under chapter 34.05 RCW. This action will be
2 taken without further order by the Commission.

3
4 So ORDERED this 20th day of July, 2005.

5 WASHINGTON STATE PUBLIC
6 DISCLOSURE COMMISSION

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8

9 VICKI RIPP
10 Executive Director

11 Attachment: Stipulation of Facts, Violations and Penalty Dated June 9, 2005

12 MAILING DATE OF THIS ORDER:

13 7/20/05
14

15 Copies of this Order to:

16 Linda Dalton
17 Senior Assistant Attorney General
18 Washington State Attorney General's Office
19 Government Compliance and Enforcement Division
1125 Washington St. SE
P.O. Box 40100
Olympia, WA 98504-0100

20 Nancy Krier
21 Senior Counsel
22 Washington State Attorney General's Office
23 Licensing and Administrative Law Division
1125 Washington St. SE
P.O. Box 40110
Olympia, WA 98504-0110

24 Kevin Hamilton
25 Perkins Coie LLP
26 1201 3rd Ave. Ste 4800
Seattle, WA 98101-3099

FINAL ORDER

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8 **BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

9 **IN THE MATTER OF ENFORCEMENT
ACTION AGAINST**

10 Washington State Democratic Central
11 Committee

12 Respondent.

PDC CASE NO: 05-136

**STIPULATION OF FACTS,
VIOLATIONS AND PENALTY**

13
14 Washington State Democratic Central Committee (Respondent) and Public Disclosure
15 Commission Enforcement Staff (Staff) jointly submit this Stipulation of Facts, Violations and
16 Penalty for Commission consideration at the June 9, 2005 Commission meeting. The parties
17 agree that pursuant to RCW 42.17.360 *et seq.*, the Commission has the authority to accept,
18 decline, or to suggest modifications to this Stipulation.

19 **I. FACTS**

20 The parties hereto agree that the Report of Investigation dated May 26, 2005 with
21 exhibits contains accurate statements of fact and is incorporated in this Stipulation by
22 reference.
23

24 **A. Contributions**

25
STIPULATION OF FACTS,
VIOLATIONS & PENALTY

- 1 1. On September 14, 2004, Paul Berendt, Chair of the Washington State Democratic Central
2 Committee, notified the Public Disclosure Commission that the WSDCC planned to
3 transfer funds from its Federal Account to its State Non-Exempt Account. He stated that
4 the contributions to be transferred were from individual donors, and that each would be
5 reported to the PDC in accordance with this agency's rules for reporting monetary
6 contributions on forms C-3 and C-4.
- 7 2. On September 16, 2004, Susan Harris, then Assistant Director of the PDC, sent a letter to
8 Mr. Berendt, confirming that the individual contributions composing the amount to be
9 transferred to the WSDCC State Non-Exempt Account should be reported on form C-3 in
10 accordance with state law.
- 11 3. On October 22, 2004, the WSDCC electronically filed a form C-3 for the committee's State
12 Non-Exempt Account, indicating a deposit of \$394,544 on October 4, 2004. The source
13 of the funds was listed on the report as "WSDCC Federal." No individual contributors
14 were disclosed on the report.
- 15 4. The report's due date was October 12, 2004.
- 16 5. On at least three occasions from October 2004 through January 2005, PDC staff contacted
17 WSDCC staff to ascertain the whereabouts of the missing report information.
- 18 6. On January 24, 2005, the WSDCC electronically filed a form C-3 for the committee's State
19 Non-Exempt Account, disclosing the individual sources of \$394,544 in contributions
20 deposited on October 4, 2004. The report numbered 332 pages, and included more than
21 3,641 itemized contributions. Because it was initially filed as an original report, rather than
22 an amendment of the October 22, 2004 C-3, it was replaced by an amended report on
23 January 26, 2005.
- 24 7. The detailed contributor information was filed 103 days late.

25 B. *Expenditures*

1 8. On February 15, 2005, WSDCC independent auditor Phil Lloyd advised the PDC staff that
2 his audit had uncovered a significant amount of debt, incurred through candidate support
3 expenditures and required to be reported by the WSDCC's State Non-Exempt Account
4 prior to the November 2, 2004 general election, had not been reported.

5 9. On February 15, 2005, the WSDCC submitted amended C-4 reports for the 21 and 7 day
6 pre-general election and post-election reporting periods. The reports listed a total of
7 \$834,989 in debts incurred or outstanding during the periods covered by the reports. Some
8 part of this debt appeared to be duplicative, or carried over from one reporting period to the
9 next.

10 10. A total of \$704,815 in unique debt was required to be disclosed by WSDCC on the 21 and
11 7 day pre-general election C-4 reports, and on the post-general election report, and was
12 disclosed between 67 and 126 days late as noted below:

<u>C-4 Report</u>	<u>Debts</u>	<u>Days Late</u>
21-day C-4	\$124,521	126
7-day C-4	\$541,716	112
Post Election	<u>\$ 38,578</u>	67
Total Debt	\$704,815	

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17 C. *Prior conduct*

18 11. On April 1, 2004 Mr. Berendt sent a letter to the PDC verifying that a required annual audit
19 of the WSDCC's books had been completed by Phil Lloyd. Mr. Lloyd's audit revealed
20 only minor discrepancies between WSDCC's records and its PDC filings, but noted that
21 \$34,233 in obligations to political consultants for the WSDCC's in-kind contributions in
22 October of 2003 appeared not to have been reported as debt on the party's 7 day pre-
23 general election C-4 report, and were disclosed on the C-4 only after the debts had been
24 paid.
25

- 1 12. On February 2, 2004, then PDC Chief Political Finance Specialist Kurt Young completed a
2 limited scope audit of the 2002 WSDCC election activities. In an Auditor's Opinion Letter
3 sent to WSDCC Chair Paul Berendt on May 20, 2004, Mr. Young noted that no orders
4 placed, debts or obligations were reported by WSDCC's State Non-Exempt Account for
5 the 2002 general election. Mr. Young concluded that approximately \$185,740 in
6 expenditures made by WSDCC to political consulting firms for candidate support
7 expenditures should have been reported as orders placed, debts or obligations. He
8 reminded Mr. Berendt that WSDCC was required by WAC 390-16-205 to report
9 expenditures by consultants as if they had been made or incurred by WSDCC directly, and
10 enclosed a copy of the rule with his letter. He recommended that WSDCC develop better
11 internal controls to track orders placed, debts and obligations made through political
12 consultants for the 2004 election cycle.
- 13 13. On May 20, 2004, Philip Stutzman, the PDC's Director of Compliance, sent a letter to Mr.
14 Berendt cautioning Mr. Berendt that WSDCC was required to adhere to disclosure and
15 reporting requirements, including the requirement to disclose orders placed with political
16 consultants. He warned Mr. Berendt that failure by WSDCC to comply with reporting
17 requirements during future election cycles, including the specific requirements for orders
18 placed, debts and obligations, could result in enforcement action.

19 II. VIOLATIONS

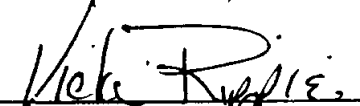
20 Respondent and Staff agree that based upon the facts stipulated above and set forth in
21 the Report of Investigation, the Respondent committed violations of RCW 42.17.080 and .090
22 by failing to timely report and disclose information required for \$394,544 in contributions from
23 individual donors. Additionally, Respondent and Staff agree that based upon the facts
24 stipulated above and set forth in the Report of Investigation, the Respondent committed
25

multiple violations of RCW 42.17.080 and .090 by failing to timely disclose debts and orders placed that totaled \$704,815 for candidate support expenditures during the 2004 election.

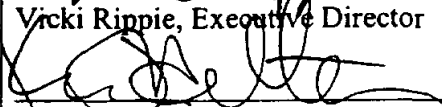
III. PENALTY

Based on the foregoing stipulations to facts and violations, the parties agree that the following penalty is appropriate:

1. A civil penalty in the amount of \$85,000.
2. Payment of \$2,500 in attorneys fees and costs of investigation.
3. Payment of the above shall be made as follows: \$52,500 to be paid on or before December 31, 2005 and the remainder to be paid on or before December 31, 2006.


Vicki Rippie, Executive Director

6/9/05
Date Signed


Kevin Hamilton, WSBA #15648
Attorney for Respondent

6/9/05
Date Signed



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 * Olympia, Washington 98504-0908 * (360) 753-1111 * Fax (360) 753-1112
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July 20, 2005

KEVIN HAMILTON
PERKINS COIE LLP
1201 3RD AVE STE 4800
SEATTLE WA 98101-3099

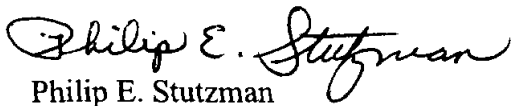
Subject: Stipulation and Order on Disposition of Suspended Penalty

Dear Mr. Hamilton:

Enclosed is the Public Disclosure Commission's Stipulation and Order on Disposition of Suspended Penalty that was entered at the Commission meeting on June 9, 2005. The action concerns Thurston County Superior Court case number 03-2-01235-0 which resulted from PDC Case Number 03-005.

If you have questions, please contact me at (360) 664-8853, toll free at 1-877-601-2828 or by email at pstutzman@pdc.wa.gov.

Sincerely,


Philip E. Stutzman
Director of Compliance

Enclosures

*"The public's right to know of the financing of political campaigns and lobbying
and the financial affairs of elected officials and candidates far outweighs
any right that these matters remain secret and private."*

RCW 42.17.010 (10)



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**BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

IN RE COMPLIANCE
WITH RCW 42.17

WASHINGTON STATE DEMOCRATIC
CENTRAL COMMITTEE

Respondent.

STIPULATION AND ORDER ON
DISPOSITION OF SUSPENDED
PENALTY

This matter is presented to the Commission upon the stipulation of the parties, Respondent, Washington State Democratic Central Committee, and the Public Disclosure Commission staff.

I. INTRODUCTION

On June 25, 2003, the Thurston County Superior Court entered a judgment against the Respondent in case number 03-2-01235-9. The judgment assessed a civil penalty in the amount of \$250,000 for the Respondent's violations of chapter 42.17 RCW. A portion of the penalty, \$100,000, was suspended upon the following condition and term:

IT IS FURTHER ORDERED that the Commission shall have jurisdiction over the suspended portion of the penalty during the period of Defendant's partial penalty assessment suspension (through December 31, 2008), for purposes of enforcing the terms of the suspension. **In the event that during the term of the suspension, the Defendant commits apparent violations of chapter 42.17 RCW that result in another referral to the Attorney General's Office, then the Commission may, at its discretion, schedule a hearing to determine whether, and if so, to what degree to implement the suspended portion of this penalty.** At the end of the period of suspension, December 31, 2008, unless the Commission has requested an extension and this Court has agreed that good cause for an extension exists, the terms and conditions of the partial penalty assessment suspension shall be deemed satisfied, the partial penalty assessment suspension shall be set aside, and the

1 jurisdiction of the Commission and the Court over this matter shall be terminated, all
2 without further order of the Court.

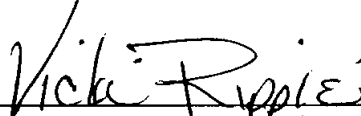
3 Emphasis added.

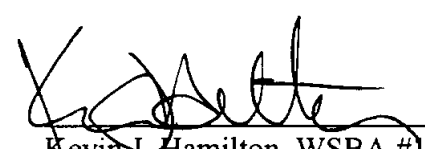
4 Based a Report of Investigation dated May 26, 2005, the parties have agreed to a
5 resolution of the violations outlined in that report.

6 **II. STIPULATION**

- 7 1. The Respondent and Staff agree that, in the event the Report of Investigation dated May 26,
8 2005 had been presented to the full Commission, it is likely the Commission would have
9 determined that a referral to the Attorney General's Office was appropriate.
10
11 2. The Respondent and Staff agree that based on the conduct at issue in the Report of
12 Investigation dated May 26, 2005, the Commission would likely have scheduled a hearing
13 on the suspended portion of the Judgment in case number 03-2-1235-9 and imposed the full
14 amount of the suspended penalty.
15
16 3. The Respondent and Staff therefore agree the condition in the judgment in Thurston
17 County case number 03-2-01235-9 has been met and that imposition and payment of the
18 full suspended portion of the penalty in the amount of \$100,000 from case number 03-2-
19 01235-9 is appropriate at this time.
20
21 4. Respondent agrees to pay said amount as outlined in the Order below and waives any right
22 to challenge the obligation to pay that penalty.

23 DATED this 9th day of June, 2005.

24 
25 Vicki Rippie, Executive Director
26 Public Disclosure Commission


Kevin J. Hamilton, WSBA #15648
Attorney for Respondent
Washington State Democratic
Central Committee

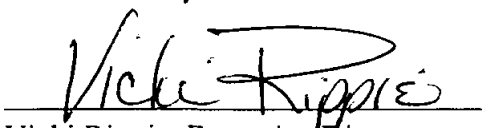
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III. ORDER

This matter having come before the full Public Disclosure Commission upon the Stipulation of the Respondent, Washington State Democratic Central Committee and the Staff of the Public Disclosure Commission, and the Commission having considered the matter and having heard from both parties, the Commission hereby directs the Executive Director to sign the following Commission order on their behalf:

1. That the previously suspended portion of the penalty entered in Thurston County Superior Court case number 03-2-01235-9 in the amount of \$100,000 shall be imposed against the Respondent.
2. The payment of this penalty shall be as follows taking into consideration the payment schedule the Respondent has agreed to in PDC case number 05-136: \$25,000 to be paid on or before December 31, 2007, \$25,000 to be paid on or before December 31, 2008, \$25,000 to be paid on or before December 31, 2009 and \$25,000 to be paid on or before December 31, 2010.

Dated: 6/9/05


Vicki Rippie, Executive Director
Public Disclosure Commission